

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE

Jonathan McPhee

v.

Civil No. 18-cv-322-LM

Symphony New Hampshire

ORDER

This court has issued multiple standing orders addressing the operation of the court and court proceedings during the current public health crisis caused by the novel coronavirus (COVID-19).¹ In those orders, the court expressed its commitment to fulfilling its mission of providing justice effectively and efficiently during this public health emergency. Despite the court's best efforts, there will be delay in the resumption of civil jury trials due both to public safety concerns and a backlog of cases. In the interest of preventing further delay in the resolution of certain civil matters, the court offers the opportunity to civil litigants to have all or part of their suits resolved by bench trial before the court via video-conference.²

The court envisions this procedure applying in the following situations:

- where the parties agree that the whole case (i.e. all remaining claims and issues) may be tried before the court; or
- where the parties agree that one or more claims can be bifurcated and tried before the court, such as where the parties lack a right to a jury trial on one claim or claims (e.g. a claim under the New Hampshire Consumer Protection Act); or

¹ All the court's Standing Orders regarding the COVID-19 pandemic can be found here: <http://www.nhd.uscourts.gov/court-response-coronavirus-disease-covid-19>.

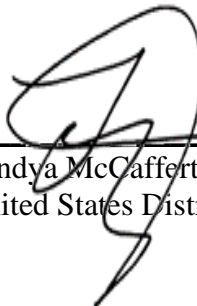
² The court cannot offer this procedure in social security or ERISA cases, or where a party is either representing himself/herself pro se or is an inmate at a jail or prison.

- where the parties agree that there are one or more factual issues that the court could resolve that may help progress the litigation, narrow the issues for trial, or advance the case towards settlement.

The court also welcomes litigants' creative ideas about other ways in which the court can effectively and swiftly advance civil matters given the current constraints on in-person proceedings.³

The court emphasizes that the opportunity to have all or part of a case tried to the court by video-conference is completely optional. All parties must consent to waive their rights to a jury trial and instead agree to try all or part of a case before the court via video-conference. See Fed. R. Civ. P. 39(a). If all parties consent and are interested in exploring how this procedure could be applied to their case, the parties should contact Courtroom Deputy Donna Esposito at (603) 225-1623 or Courtroom Deputy Jennifer Sackos at (603) 225-1475 to schedule a telephone conference with the court.

SO ORDERED.



Landya McCafferty
United States District Judge

June 16, 2020

cc: Counsel of Record

³ For example, the court would be open to the possibility of a summary jury trial via video, if parties believe it may assist in settling a case.